

REMARKS

I. INTRODUCTION

Receipt of the Office Action of June 25, 2003 is acknowledged. Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 101 and 104 are currently being amended.

Claims 106-111 are being added. The new claims are supported generally throughout the specification and original claims, e.g., on page 24, lines 17-21.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 48, 101, 104 and 106-111 are now pending in this application.

II. THE OFFICE ACTION

A. Rejections based on 35 U.S.C. 102(b)

The Examiner has rejected claims 101 and 104 under 35 U.S.C. § 102(b) as allegedly anticipated by Khau et al (U.S. Patent No. 5,986,106). Applicant respectfully traverses.

The present application is a national stage application filed under 35 U.S.C. § 371, wherein the PCT application designated the United States. According to MPEP 1893.03(b),

[i]t should be borne in mind that the filing date of the international application stage application is also the filing date for the national stage application. Specifically, 35 U.S.C. § 363 provides that

An international application designating the United States shall have the effect, from its international filing date under Article 11 of the treaty, of a national application for

patent regularly filed in the Patent and Trademark Office except as otherwise provided in section 102(e) of this title.

In the present application, the International Application (PCT) was filed October 7, 1999 and entered the United States national stage on April 16, 2001. Thus, the present application has the effect of a patent regularly filed in the USPTO as of October 7, 1999. Khau et al., U.S. Patent No. 5,986,106, issued on November 16, 1999. Therefore, because the patent did not issue more than 1 year before the present application. A rejection of claims 101 and 104 under 35 U.S.C. § 102(b) is improper.

Furthermore, the patient population has been explicitly defined in claims 101 and 104 and as such, Khau et al. does not anticipate the present claims. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

B. Rejections based on 35 U.S.C. § 103

The Examiner has rejected claims 48, 101 and 104 under 35 U.S.C. § 103 as allegedly unpatentable over Sonnino (Digestive Diseases and Sciences, May 1997) in view of Khau et al. (U.S. Patent No. 5,986,106). Applicant respectfully traverses.

As stated above, Khau et al. is not prior art under 35 U.S.C. 102(b). The Examiner urges that Sonnino teaches PX-13 as an sPLA₂ inhibitor and that sPLA₂ contributes to ischemic reflow. The Examiner combines Khau et al., which teaches 4-substituted-1H-indole-3-glyoxamides as sPLA₂ inhibitors, with Sonnino to arrive at the present invention. However, Khau et al. is not prior art to the present application. As such, the rejection of claims 48, 101 and 104 is not proper. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

III. CONCLUSION

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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